

AUG 15 2005

FCC - MAIL ROOM

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

In re investigation and rulemaking regarding the Lifeline/
Link-up program benefits pursuant to FCC 04-87 Report)
and Order and Further Notice of Proposed Rulemaking.)
)

Docket No. 04-8003

At a general session of the Public Utilities
Commission of Nevada, held at its offices
on July 27, 2005.

PRESENT: Chairman Donald L. Soderberg
Commissioner Carl B. Linvill
Commissioner Jo Ann P. Kelly
Commission Secretary Crystal Jackson

ORDER ADOPTING TEMPORARY REGULATIONS AS PERMANENT

The Public Utilities Commission of Nevada ("Commission") makes the following
findings of fact and conclusions of law:

1. On August 4, 2004, the Commission voted to open an investigation, designated as Docket No. 04-8003, to determine what actions should be taken pursuant to the Federal Communications Commission's ("FCC") Report and Order and Further Notice of Proposed Rulemaking, FCC Order 04-87, regarding Lifeline/Link-up program benefits. The FCC Lifeline/Link-up Order requires all states to adopt verification and certification procedures to document income-based eligibility for Lifeline/Link-up enrollment. On February 9, 2005, the Commission voted to expand the scope of this docket to include a rulemaking.

2. This matter is being conducted by the Commission pursuant to the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code, Chapters 233B, 703, and 704, including but not limited to NRS 704.210.

3. The Commission issued a public notice of this matter in accordance with state law and the Commission's Rules of Practice and Procedure.

No. of Copies rec'd 0
List ABCDE

4. On March 24, 2005, the Commission delivered the proposed temporary regulations to the Legislative Counsel Bureau ("LCB").

5. On April 13, 2005, the Commission voted, pursuant to NRS 233B.0608, to accept the Regulatory Operations Staff of the Commission's recommendation and find that the proposed temporary regulations do not: (a) impose a direct and significant economic burden upon a small business; or (b) directly restrict the formation, operation or expansion of a small business.

6. Duly noticed workshops were held on October 5, 2004; November 4, 2004; March 18, 2005; and April 28, 2005. A duly noticed hearing was held on May 10, 2005.

7. Appearances were made at the foregoing workshops and hearing by interested persons, including Staff; the Attorney General's Bureau of Consumer Protection; Nevada Bell Telephone, d/b/a SBC Nevada; the Nevada Telecommunications Association; the State of Nevada Department of Human Resources, Welfare Division; Verizon California Inc., d/b/a Verizon Nevada; the Washoe County Senior Law Project; AT&T; and Central Telephone Company Nevada, d/b/a Sprint of Nevada and Sprint Communications Company L.P.

8. At a duly noticed agenda meeting on June 1, 2005, the Commission adopted the temporary regulations.

9. On July 1, 2005, the Commission received a revised version of the adopted temporary regulation from the LCB, attached hereto and incorporated herein as Attachment 1.

10. On July 7, 2005, the Commission delivered the adopted temporary regulations to the Secretary of State and the LCB pursuant to NRS 233B.070(2).

11. On July 18, 2005, the Commission received a date-stamped copy of the adopted temporary regulations from the Secretary of State's office evidencing that the regulations had been accepted on July 8, 2005.

12. On July 20, 2005, the Commission delivered the adopted temporary regulations bearing the stamp of the Secretary of State to the Nevada State Library and Archives Administrator pursuant to NRS 233B.070(6).

13. The Commission finds that it is in the public interest to adopt as permanent the proposed regulations attached hereto and incorporated herein as Attachment 1.

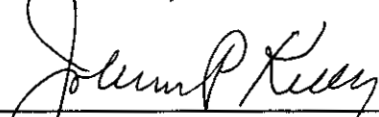
THEREFORE, based on the foregoing findings of fact and conclusions of law, it is hereby ORDERED that:

1. The proposed regulations, attached hereto and incorporated herein as Attachment 1, are ADOPTED AS PERMANENT pursuant to NRS 233B.060(3).
2. The Commission Secretary is authorized to CLOSE Docket No. 04-8003.
3. The Commission retains jurisdiction for the purpose of correcting any errors that may have occurred in the drafting or issuance of the Order.

By the Commission,


DONALD L. SODERBERG, Chairman


CARL B. LINVILL, Commissioner


JO ANN P. KELLY, Commissioner

Attest: 
CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

8-5-05
(SEAL)



ATTACHMENT 1

**PROPOSED REGULATION OF THE
PUBLIC UTILITIES COMMISSION OF NEVADA**

LCB File No. R051-05

June 29, 2005

EXPLANATION – Matter in *italics* is new; matter in brackets [omitted material] is material to be omitted.

AUTHORITY: §§1-10, NRS 703.025, 704.040, 704.210 and 704.6873.

A REGULATION relating to telecommunications; requiring an eligible telecommunications carrier to verify that certain subscribers remain eligible to receive lifeline or link up services; revising the documentation that a subscriber must submit to a provider of telecommunication service to establish his eligibility to receive lifeline and link up services; requiring an eligible telecommunications carrier under certain circumstances to enroll subscribers who have outstanding toll charges; and providing other matters properly relating thereto.

Section 1. Chapter 704 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“Link up” has the meaning ascribed to it in 47 C.F.R. § 54.411(a).*

Sec. 3. *“Toll blocking” has the meaning ascribed to it in 47 C.F.R. § 54.400(b).*

Sec. 4. 1. *An eligible telecommunications carrier shall verify that each subscriber of the eligible telecommunications carrier who receives lifeline or link up services remains eligible to receive those services as follows:*

(a) To verify the continued eligibility of a subscriber who submitted documentation in accordance with paragraph (a) of subsection 2 of NAC 704.680474 to establish his eligibility to receive lifeline or link up services, the eligible telecommunications carrier shall annually

contact the subscriber and request that the subscriber provide to the eligible telecommunications carrier updated documentation in accordance with subsection 2 of NAC 704.680474 which demonstrates that the subscriber remains eligible to receive lifeline or link up services.

(b) To verify the continued eligibility of a subscriber who submitted documentation pursuant paragraph (b) of subsection 2 of NAC 704.680474 to establish his eligibility to receive lifeline or link up services, the eligible telecommunications carrier shall review the list provided by the Department of Human Resources pursuant to NRS 707.470 of persons who are eligible to receive lifeline or linkup services. If the name of a subscriber no longer appears on the list, the eligible telecommunications carrier shall contact the subscriber and request that the subscriber provide to the eligible telecommunications carrier updated documentation in accordance with subsection 2 of NAC 704.680474 demonstrating that the subscriber remains eligible to receive lifeline or link up services.

2. If a subscriber fails to provide the updated documentation pursuant to subsection 1 within 60 days after receiving a request for the documentation, the subscriber shall be deemed to be ineligible to receive lifeline or link up services, and the eligible telecommunications carrier shall switch the rate for telephone service for the subscriber to the regular rate for telephone service.

Sec. 5. An officer or other authorized representative of an eligible telecommunications carrier shall certify that the eligible telecommunications carrier is in compliance with the procedures for certifying income established for the lifeline and link up programs in this State and shall certify that, to the best of his knowledge, documentation of income was presented by

each subscriber as required in section 4 of this regulation and NAC 704.680474. For the purposes of this section, the officer or authorized representative may rely on the information provided by the Department of Human Resources as evidence that a subscriber is receiving benefits from a program of assistance described in paragraph (b) of subsection 2 of NAC 704.680474.

Sec. 6. NAC 704.6804 is hereby amended to read as follows:

704.6804 As used in NAC 704.6804 to 704.68056, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 704.68041 to 704.680424, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 7. NAC 704.680474 is hereby amended to read as follows:

704.680474 1. To be eligible as a qualifying low-income subscriber for the purposes of NAC 704.680475 and 704.680477:

(a) The total household gross income of the subscriber must not exceed ~~{150%}~~ **150 percent** of the federally established poverty levels set forth for the number of persons in the household of that subscriber;

(b) The residential premises at which the subscriber receives telecommunication service must be the principal place of residence of the subscriber; and

(c) The subscriber must have only one telephone line serving his residential premises.

2. To demonstrate the qualification set forth in paragraph (a) of subsection 1, the subscriber must submit to the provider of telecommunication service that serves the subscriber:

(a) ~~[The individual federal income tax return that the subscriber filed most recently with the Internal Revenue Service;]~~ **Documentation which demonstrates the total household gross income of the subscriber from one or more of the following sources:**

- (1) The subscriber's most recent federal income or tribal tax return; or**
- (2) All statements of income, as that term is defined in 47 C.F.R. § 54.400(f), for the subscriber's household for 3 consecutive months within the same calendar year; or**

(b) Documentation which proves that the subscriber receives benefits from one or more of the following programs of assistance:

- (1) Medicaid;**
- (2) Food stamps;**
- (3) Supplemental security income;**
- (4) Federal public housing assistance;**
- (5) Low-income home energy assistance; ~~for~~**
- ~~(6) Aid to families with dependent children;~~**
- (6) Temporary Assistance for Needy Families Program; or**
- (7) National School Lunch Program.**

3. The documentation required pursuant to subsection 2 must be presented to and accepted by the provider of telecommunication service before the provider of telecommunication service may enroll the subscriber in the lifeline or link up services. A provider of telecommunication service shall retain such documentation in accordance with 47 C.F.R. § 54.417, as that section existed on the effective date of this regulation.

Sec. 8. NAC 704.680475 is hereby amended to read as follows:

704.680475 1. An eligible telecommunications carrier shall offer to subscribers within its service area the following services:

- (a) Lifeline; and
- (b) Link up.

2. In offering lifeline service pursuant to subsection 1, an eligible telecommunications carrier shall offer to qualifying low-income subscribers such lifeline discounts as are necessary to enable the carrier to comply fully with the directives of the Federal Communications Commission, including, without limitation, 47 C.F.R. § 54.403.

~~{3. As used in this section, "link up" has the meaning ascribed to it in 47 C.F.R. § 54.411(a).}~~

Sec. 9. NAC 704.680476 is hereby amended to read as follows:

704.680476 1. Except as otherwise provided in subsection ~~{2,}~~ 3, an eligible telecommunications carrier shall not disconnect service provided pursuant to a lifeline program if the subscriber fails to pay charges for toll calls.

2. *An eligible telecommunications carrier shall enroll a subscriber who is eligible for the lifeline program, the link up program, or both, but who has outstanding unpaid toll charges if the subscriber agrees to toll blocking and sets up a payment arrangement with the carrier for the payment of the unpaid toll charges. To reestablish toll service, the subscriber must pay the outstanding toll charges in full.*

3. An eligible telecommunications carrier may file with the Commission an application for a waiver from the requirements of ~~{subsection 1.~~

~~—3.} subsections 1 and 2.~~

4. The Commission will approve an application for such a waiver only upon determining after investigation that the eligible telecommunications carrier:

(a) Would incur substantial costs to comply with the provisions of ~~{subsection 1;}~~
subsections 1 and 2;

(b) Offers, at no charge, toll limitation to its consumers that qualify as low-income ~~{consumers;}~~ *subscribers;* and

(c) Provides service within a service area in which the level of telephone subscription among low-income ~~{consumers}~~ *subscribers* is equal to or greater than the national average rate of subscription for low-income ~~{consumers}.~~

~~—4.} subscribers.~~

5. The Commission will approve or deny an application that is filed pursuant to subsection ~~{2}~~ 3 within 30 days after receipt of the application.

~~{5. — As used in this section, “low income consumer” means a consumer whose income is below the poverty level established for a family of four that resides within the State of Nevada.}~~

Sec. 10. NAC 704.680477 is hereby amended to read as follows:

704.680477 1. Except as otherwise provided in subsection 2, an eligible telecommunications carrier shall not charge a service deposit to initiate service provided pursuant to a lifeline program if the qualifying low-income subscriber elects voluntarily to receive toll blocking from the carrier.

2. An eligible telecommunications carrier may charge a service deposit to initiate service provided pursuant to a lifeline program if the qualifying low-income subscriber does not elect voluntarily to receive toll blocking or if toll blocking is unavailable.

~~[3. As used in this section, "toll blocking" has the meaning ascribed to it in 47 C.F.R. §~~
~~54.400(b).]~~